

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:08-cr-00016-MR**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
MATTHEW JAMES DURY,)	
)	
Defendant.)	
<hr style="width:50%; margin-left:0"/>)	

THIS MATTER is before the Court on the Defendant's "Motion to Question the Constitutionality of the Interstate Commerce Act of 1887" [Doc. 127].

The Defendant, yet again, seeks to challenge the validity of his criminal conviction and the jurisdiction of this Court. He further insists that counsel for the Government must file a response before the Court can address his motion. [Doc. 127].

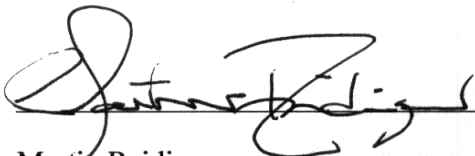
The Defendant's challenges to the validity of his criminal conviction and this Court's jurisdiction have been repeatedly rejected by this Court [Docs. 34, 46, 87, 90, 104, 115], as well as by the Fourth Circuit Court of Appeals [Docs. 40, 105, 124]. The Defendant's present motion is frivolous and therefore no response is necessary from the Government. The

Defendant's conviction for possession of child pornography has nothing to do with the Interstate Commerce Act of 1887 or the Interstate Commerce Commission. Likewise, this Court does not derive its jurisdiction or authority in this case from Article I § 8 clause 3 of the Constitution. It was *Congress* that drew its authority from that provision when it passed 18 U.S.C. § 2252, the criminal statute the Defendant was convicted of violating (a charge to which he pled guilty). This Court draws its jurisdiction from Article III of the Constitution. For these reasons (and all those reasons previously stated by the Court), the Defendant's arguments are wholly unfounded and have no support in the law.

IT IS, THEREFORE, ORDERED that the Defendant's "Motion to Question the Constitutionality of the Interstate Commerce Act of 1887" [Doc. 127] is **DENIED** and **DISMISSED**.

IT IS SO ORDERED.

Signed: July 25, 2018


Martin Reidinger
United States District Judge

